

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ROBERT L. TRAVERSO,

Plaintiff,

v.

CITY OF ENUMCLAW, a municipal corporation, CHIEF JIM ZOLL and his marital community; ERIC SORTLAND and his marital community, and JOHN DOES 1-20, Inclusive,

Defendants.

No. 2:11-cv-1313

NOTICE OF REMOVAL

**(CLERK'S ACTION REQUIRED)**

Pursuant to 28 U.S.C. § 1443, and 28 U.S.C. § 1446, Defendants City of Enumclaw, Zoll, and Sortland hereby remove the above-entitled action to the United States District Court for the Western District of Washington at Seattle. Defendants state:

1. The above-entitled action was filed in the Superior Court of the State of Washington for King County, Cause Number 11-2-21395-1 KNT.

2. Jurisdiction of this Court is based on 28 U.S.C. §1331, 28 U.S.C. §1343, 28 U.S.C. §1367, 28 U.S.C. §1441, and/or 28 U.S.C. §1443, and Plaintiff's claims for alleged violations of rights as secured under the Constitution and laws of the United States.

3. Paragraph 6.2 of *Plaintiff's Complaint for Personal Injuries* alleges:

As a result of the allegations contained in this complaint, the City of Enumclaw is liable to the plaintiff for his loss of income, services, protection, care, assistance, society and expenses under 42 U.S.C. § 1983.

NOTICE OF REMOVAL - 1

Cause No. 2:11-cv-1313

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Notice of Removal.doc

KEATING, BUCKLIN & MCCORMACK, INC., P.S.

ATTORNEYS AT LAW  
800 FIFTH AVENUE, SUITE 4141  
SEATTLE, WASHINGTON 98104-3175  
PHONE (206) 623-8881  
FAX (206) 223-9423

4. All Defendants join in this Notice.

5. Pursuant to 28 U.S.C. § 1446(a), true and correct copies of all pleadings previously filed and served on or by these Defendants are attached hereto as follows:

- A. Summons to Chief Jim Zoll on Complaint for Personal Injuries;
- B. Summons to Lieutenant Eric Sortland on Complaint for Personal Injuries;
- C. Summons to City of Enumclaw on Complaint for Personal Injuries;
- D. Complaint for Personal Injuries;
- E. Case Information Cover Sheet and Area Designation;
- F. Order Setting Civil Case Schedule; and
- G. Defendants' Notice of Appearance;

Defendants respectfully reserve any and all affirmative defenses.

RESPECTFULLY SUBMITTED this 9<sup>th</sup> day of August, 2011.

KEATING, BUCKLIN & McCORMACK, INC., P.S.

s/ Stewart A. Estes

Stewart A. Estes, WSBA #15535

Attorney for Defendants City of Enumclaw, Zoll, & Sortland

A

FILED

11 JUN 20 PM 2:37

KING COUNTY  
SUPERIOR COURT CLERK  
E-FILED  
CASE NUMBER: 11-2-21395-1 KNT

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

ROBERT L. TRAVERSO, )  
 ) No.  
Plaintiff, )  
vs. ) SUMMONS  
 )  
CITY OF ENUMCLAW, a municipal )  
corporation, CHIEF JIM ZOLL and his )  
marital community; ERIC SORTLAND )  
and his marital community, and JOHN )  
DOES 1-20, Inclusive. )  
 )  
Defendants. )  
 )

TO: Chief Jim Zoll  
Enumclaw Police Department  
1705 Wells Street  
Enumclaw, Washington 98022-3091

TO THE DEFENDANTS: A lawsuit has been started against you in the above entitled court by the above-captioned plaintiffs. Plaintiffs' claims are stated in the written Complaint, a copy of which is served upon you with this Summons.

In order to defend against this lawsuit, you must respond to the Complaint by stating your defense in writing, and serving a copy upon the person signing this Summons within 20 days after the service of this Summons, excluding the day of service, or a Default Judgment may be entered against you without notice. A Default

SUMMONS - 1

KHODR & WINKELHAKE, P.L.L.C.  
ATTORNEYS AT LAW  
323 QUEEN ANNE AVE. N, SUITE 102  
SEATTLE, WASHINGTON 98109-4543  
TELEPHONE: (206) 384-1886

1 Judgment is one where plaintiff is entitled to what he asks for because you have not  
2 responded. If you serve a Notice of Appearance on the undersigned person you are  
3 entitled to notice before a default judgment may be entered.

4 Any Response or Notice of Appearance which you serve on any party to this  
5 lawsuit must also be filed by you with the court within 20 days after the service of  
6 Summons, excluding the day of service

7 If you wish to seek the advice of an attorney in this matter, you should do so  
8 promptly so that your written response, if any, may be served on time.

9 This summons is issued pursuant to rule 4 of the Washington Superior Court  
10 Civil Rules.

11 DATED this 20<sup>th</sup> day of June, 2011.

12  
13 s/Aaron J. Winkelhake  
14 Aaron J. Winkelhake, WSBA No. 32733  
15 Tanya A. Khodr, WSBA No. 34300  
16 Khodr & Winkelhake, P.L.L.C.  
17 323 Queen Anne Ave. N, Suite 102  
18 Seattle, Washington 98109-4543  
19 Telephone: (206) 384-1886  
20 Fax: (206) 274-4829  
21 E-mail: [awinkelhake@kwlegal.org](mailto:awinkelhake@kwlegal.org)  
22 E-mail: [tkhodra@kwlegal.org](mailto:tkhodra@kwlegal.org)  
23 Attorneys for Plaintiffs  
24  
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SUMMONS - 2

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SEATTLE, WASHINGTON 98109-4543  
TELEPHONE: (206) 384-1886

B

FILED

11 JUN 20 PM 2:37

KING COUNTY  
 SUPERIOR COURT CLERK  
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 CASE NUMBER: 11-2-21395-1 KNT

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
 IN AND FOR THE COUNTY OF KING

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 ) No.  
 Plaintiff, )  
 vs. ) SUMMONS  
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 CITY OF ENUMCLAW, a municipal )  
 corporation, CHIEF JIM ZOLL and his )  
 marital community; ERIC SORTLAND )  
 and his marital community, and JOHN )  
 DOES 1-20, Inclusive. )  
 )  
 Defendants. )  
 )

TO: Lieutenant Eric Sortland  
 Enumclaw Police Department  
 1705 Wells Street  
 Enumclaw, Washington 98022-3091

TO THE DEFENDANTS: A lawsuit has been started against you in the above entitled court by the above-captioned plaintiffs. Plaintiffs' claims are stated in the written Complaint, a copy of which is served upon you with this Summons.

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 323 QUEEN ANNE AVE. N, SUITE 102  
 SEATTLE, WASHINGTON 98109-4543  
 TELEPHONE: (206) 384-1886

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11 DATED this 20<sup>th</sup> day of June, 2011.

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13 s/Aaron J. Winkelhake  
14 Aaron J. Winkelhake, WSBA No. 32733  
15 Tanya A. Khodr, WSBA No. 34300  
16 Khodr & Winkelhake, P.L.L.C.  
17 323 Queen Anne Ave. N, Suite 102  
18 Seattle, Washington 98109-4543  
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21 E-mail: [awinkelhake@kwlegal.org](mailto:awinkelhake@kwlegal.org)  
22 E-mail: [tkhodra@kwlegal.org](mailto:tkhodra@kwlegal.org)  
23 Attorneys for Plaintiffs  
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SUMMONS - 2

KHODR & WINKELHAKE, P.L.L.C.  
ATTORNEYS AT LAW  
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SEATTLE, WASHINGTON 98109-4543  
TELEPHONE: (206) 384-1886



C

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

ROBERT L. TRAVERSO,

Plaintiff,

vs.

CITY OF ENUMCLAW, a municipal  
corporation, CHIEF JIM ZOLL and his  
marital community; ERIC SORTLAND  
and his marital community, and JOHN  
DOES 1-20, Inclusive.

Defendants.

No. 11-2-21395-1 KNT

SUMMONS

TO: City of Enumclaw  
Enumclaw City Clerk  
1339 Griffin Avenue  
Enumclaw, Washington 98022-3091

TO THE DEFENDANTS: A lawsuit has been started against you in the above  
entitled court by the above-captioned plaintiffs. Plaintiffs' claims are stated in the  
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In order to defend against this lawsuit, you must respond to the Complaint by  
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14 Aaron J. Winkelhake, WSBA No. 32733

15 Tanya A. Khodr, WSBA No. 34300

16 Khodr & Winkelhake, P.L.L.C.

17 323 Queen Anne Ave. N, Suite 102

18 Seattle, Washington 98109-4543

19 Telephone: (206) 384-1886

20 Fax: (206) 274-4829

21 E-mail: [awinkelhake@kwlegal.org](mailto:awinkelhake@kwlegal.org)

22 E-mail: [tkhodr@kwlegal.org](mailto:tkhodr@kwlegal.org)

23 Attorneys for Plaintiffs  
24  
25  
26  
27  
28  
29  
30

SUMMONS - 2

KHODR & WINKELHAKE, P.L.L.C.

ATTORNEYS AT LAW

323 QUEEN ANNE AVE. N, SUITE 102

SEATTLE, WASHINGTON 98109-4543

TELEPHONE: (206) 384-1886

D

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8 **IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON**  
9 **IN AND FOR THE COUNTY OF KING**

10 ROBERT L. TRAVERSO, )  
11 ) No.  
12 Plaintiff, )  
13 vs. ) PLAINTIFF'S COMPLAINT FOR  
14 ) PERSONAL INJURIES  
15 CITY OF ENUMCLAW, a municipal )  
16 corporation, CHIEF JIM ZOLL and his )  
17 marital community; ERIC SORTLAND )  
18 and his marital community, and JOHN )  
19 DOES 1-20, Inclusive. )  
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21 )  
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Defendants. )

COMES NOW Plaintiff Robert L. Traverso, through his counsel, the law office of Khodr & Winkelhake, P.L.L.C., and brings this complaint for personal injuries against defendants alleging as follows:

**I. Introduction**

1.1 This is a civil rights action against the City of Enumclaw, Chief Jim Zoll, Eric Sortland and other Enumclaw City Police Officers working within the Enumclaw City Jail arising from the unlawful denial of medical care to Robert Traverso while confined within the Enumclaw City Jail. The defendants' unlawful conduct caused Mr. Traverso's mental health to deteriorate until, by Court Order, he was extracted from the custody of the Enumclaw City Jail and transferred to a mental health facility

PLAINTIFF'S COMPLAINT  
FOR PERSONAL INJURIES - 1

KHODR & WINKELHAKE, P.L.L.C.  
ATTORNEYS AT LAW  
323 QUEEN ANNE AVE. N, SUITE 102  
SEATTLE, WASHINGTON 98109-4543  
TELEPHONE: (206) 384-1886

1 to stabilize his mental health. As set forth in this complaint, the defendants are liable  
2 to Mr. Traverso under federal and state law.

## 3 4 II. Parties

5 2.1 Plaintiff, Robert L. Traverso, is, and at all times relevant was a citizen of  
6 the United State and a resident of King County, Washington.

7 2.2 Defendant City of Enumclaw is a governmental entity, chartered under  
8 the laws of the State of Washington. City of Enumclaw operates the Enumclaw Jail  
9 and is a public employer of the below listed defendants.

10  
11 2.3 Defendant Chief Jim Zoll is the City of Enumclaw Police Chief and  
12 operates, administers and supervises the City of Enumclaw Jail and Enumclaw Police  
13 Officers. At all times relevant hereto, defendant Zoll was an employee of the City of  
14 Enumclaw and acting within the course and scope of his employment. All acts  
15 committed by defendant Zoll were committed under color of Washington law and  
16 under the authority of his position as the Chief of Police.

17  
18 2.4 Defendant Eric Sortland a City of Enumclaw Police Lieutenant operates,  
19 administers and supervises the City of Enumclaw Jail. At all times relevant hereto,  
20 defendant Sortland was an employee of the City of Enumclaw and acting within the  
21 course and scope of his employment. All acts committed by defendant Sortland were  
22 committed under color of Washington law and under the authority of his position as a  
23 Lieutenant within the Enumclaw Police Department.

24  
25 2.5 Defendant Does 1 through 20, inclusive, at this time they are unknown  
26 to plaintiff, who therefore sue said defendants by such fictitious names and capacities  
27 and will ask leave to amend this complaint upon the same being ascertained. At all

1 times relevant hereto, defendant Does 1 through 20, inclusive, were an employee of  
2 the City of Enumclaw and acting within the course and scope of their employment.  
3 All acts committed by defendant Does 1 through 20, inclusive, were committed under  
4 color of Washington law and under the authority of their position within the  
5 Enumclaw Police Department.  
6

7  
8 2.6 Defendants, as the plaintiff's jailors, owed the plaintiff, Robert Traverso,  
9 the duty to keep him in health and free from harm, and for any breach of such duty  
10 resulting in injury, the defendants are liable to the plaintiff. *Gregoire v. City of Oak*  
11 *Harbor*, 170 Wn.2d 628, 635, 244 P.3d 924 (2010) (En Banc). Each defendant failed  
12 and refused to perform such duty, thereby proximately causing the complained of  
13 injuries to Mr. Traverso.  
14

### 15 16 III. Jurisdiction and Venue

17 3.1 Jurisdiction is based upon RCW 2.08.010 and RCW 4.92.010. Venue is  
18 based upon RCW 4.12.020(3), RCW 4.12.025(3) as well as King County Superior  
19 Court Local Rule LR 82(e)(4)(iv). All of the defendants are located in, and legally  
20 reside in King County, Washington. All acts and omissions related to the cause of the  
21 injuries to plaintiff were performed in King County, Washington.  
22

### 23 IV. Factual Allegations

24 4.1 Plaintiff Robert L. Traverso is an adult male who suffers from Bi-Polar  
25 Disorder requiring medical treatment and medication.  
26

27 4.2 Mr. Traverso has previously been hospitalized for the disorder and has  
28 since been prescribed medications to control his illness.  
29  
30

1           4.3    On Friday, May 23, 2008, Mr. Traverso was arrested and cited for  
2   allegedly driving under the influence, in Enumclaw, Washington. He was booked into  
3   the Enumclaw Municipal Jail and subsequently bonded out of custody.

4  
5           4.4    Enumclaw Municipal Jail is an institution and correctional facility  
6   within the meaning of 42 U.S.C. § 1997(1) and RCW 70.48.020, respectively. Persons  
7   confined therein include both pretrial detainees and sentenced inmates.

8  
9           4.5    On Friday, June 13, 2008, an arraignment was scheduled at the  
10   Enumclaw Municipal Court regarding the May 23, 2008, charge of driving under the  
11   influence. An attorney appeared at the arraignment on behalf of Mr. Traverso and  
12   explained the circumstances preventing Mr. Traverso's personal appearance. Rather  
13   than reschedule the arraignment, the Enumclaw Municipal Court issued a bench  
14   warrant, Five Hundred dollars (\$500.00) cash or Five Thousand dollars (\$5,000.00)  
15   bond, for the arrest of Mr. Traverso.

16  
17  
18           4.6    On Thursday, June 19, 2008, at approximately 8:20 a.m., Mr. Traverso  
19   was spotted in a park within the City of Bellevue. The police and aid were contacted  
20   to assist Mr. Traverso as he was reportedly rambling, disoriented, not making sense  
21   and possibly having mental health issues. Mr. Traverso was subsequently examined  
22   by the Bellevue Fire Department.

23  
24  
25           4.7    After Mr. Traverso was examined by the Bellevue Fire Department, he  
26   was taken into custody by the Bellevue Police Department when they discovered the  
27   warrant issued out of the Enumclaw Municipal Court.



1           4.8    On Thursday, June 19, 2008, at approximately 10:00 a.m., Mr. Traverso  
2 was transferred to the custody of the Enumclaw Police Department and subsequently  
3 booked into the Enumclaw Municipal Jail. Upon his transfer, the Enumclaw Police  
4 Department was notified of Mr. Traverso's possible mental health issues.  
5

6           4.9    Upon admittance into the Enumclaw Municipal Jail, Mr. Traverso was  
7 not screened or otherwise evaluated regarding his mental health.  
8

9           4.10 While being admitted into the Enumclaw Municipal Jail, Mr. Traverso  
10 apprised the Enumclaw Municipal Jail staff he suffered from Bi-Polar Disorder and  
11 needed his medication. Mr. Traverso also asked the jail staff if they could help him  
12 get his medication, or get in touch with his doctor or family; his requests were denied.  
13

14           4.11 Enumclaw Municipal Jail housed detainees with mental health issues.  
15

16           4.12 Enumclaw Municipal Jail did not have policies established ensuring that  
17 incoming detainees would be screened for their mental health issues. By failing to  
18 have policies in place ensuring that detainees would be screened for their mental  
19 health issues, the City of Enumclaw was deliberately indifferent to Mr. Traverso's  
20 serious medical and mental health needs knowingly posing a substantial risk of  
21 serious harm to Mr. Traverso and is liable for Mr. Traverso's injuries.  
22

23           4.13 Enumclaw Municipal Jail did not have a physician, or other medical staff  
24 competent to deal with plaintiff Robert Traverso's mental health issues. By failing to  
25 have medical staff competent to deal with a detainees mental health issues, including  
26 Mr. Traverso's Bi-Polar Disorder, the City of Enumclaw was deliberately indifferent to  
27  
28  
29  
30

1 his serious medical and mental health needs knowingly posing a substantial risk of  
2 serious harm to Mr. Traverso and is liable for Mr. Traverso's injuries.

3  
4 4.14 Later that same day Ms. Sarah Megorden of the King County Crises and  
5 Commitment Services, upon prompting from Mr. Traverso's family, contacted the  
6 Enumclaw Municipal Jail and advised them Mr. Traverso had a Bi-Polar Disorder,  
7 was mentally unstable because he was not on his medications and posed a risk of  
8 injury to himself and others. The person at the Enumclaw Municipal Jail responded  
9 that, "you'll have to have him bailed out, then hopefully you can see him." The City of  
10 Enumclaw is liable for the injuries to Mr. Traverso due to the policies, or lack thereof,  
11 relied upon and the moving force behind the Enumclaw Municipal Jail's staff's  
12 violation of Mr. Traverso's constitutional rights by declining him medical treatment  
13 thereby remaining deliberately indifferent to his serious mental health needs and is  
14 liable for Mr. Traverso's injuries.

15  
16  
17  
18 4.15 Staff at the Enumclaw Municipal Jail, even after Ms. Megorden's  
19 telephone call, did not provide Mr. Traverso medical attention, allow him to receive  
20 medical attention, place telephone calls in order to acquire his medication or otherwise  
21 do anything to alleviate or remedy Mr. Traverso's mental health issues.

22  
23  
24 4.16 Mr. Traverso's mental health continued to deteriorate while in custody  
25 despite his continuous requests for medication, telephone calls in order to obtain his  
26 medication and for medical treatment. These requests were made both verbally and  
27 in writing. Despite a duty to promptly secure medical care for Mr. Traverso, jail staff  
28 denied Mr. Traverso's requests. In failing to secure timely medical assistance for Mr.  
29

1 Traverso, defendants DOES 1 through 20, inclusive, demonstrated a deliberate  
2 indifference to his serious medical and mental health needs and is liable for Mr.  
3 Traverso's injuries.  
4

5 4.17 Mr. Traverso, unable to control his Bi-Polar Disorder without his  
6 medication, continually talked at an extremely fast pace. The other detainees as well  
7 as staff at the Enumclaw Municipal Jail chastised Mr. Traverso and barked  
8 derogatory and profane obscenities at Mr. Traverso.  
9

10 4.18 Mr. Traverso attempting to stop his incessant and continuous chatter  
11 began placing socks into his mouth, which was encouraged by other detainees and  
12 staff at the Enumclaw Municipal Jail.  
13

14 4.19 Other symptoms Mr. Traverso endured at the Enumclaw Jail while his  
15 Bi-Polar Disorder went untreated, included, but was not limited to, inability to sleep,  
16 stop speaking and keep track of time as well as irritability, suicidal ideations,  
17 hallucinations, suspiciousness and fearful of surroundings, racing thoughts,  
18 absentmindedness, and inability to be aware of anything other than racing thoughts.  
19  
20

21 4.20 Mr. Traverso requested a copy of the Bible; his request was denied.  
22

23 4.21 The Enumclaw Municipal Jail staff did not allow Mr. Traverso to use a  
24 phone, seek medical attention or go outside for exercise and air. The Enumclaw  
25 Municipal Jail staff allowed other detainees to partake in all of those activities.  
26 Throughout their involvement defendants DOES 1 through 20, inclusive, subjected  
27 Mr. Traverso to cruel and unusual punishment and acted intentionally, knowingly,  
28  
29  
30

1 maliciously and/or in reckless disregard for Mr. Traverso's well-established rights  
2 under the Eighth and/or Fourteenth Amendments to the United State Constitution.

3  
4 4.22 By Tuesday, June 24, 2008, Mr. Traverso still had not received any  
5 medical treatment for his Bi-Polar disorder and was out-of-control. He was unable to  
6 perform simple tasks, such as request that his clothes be washed, even though it  
7 directly affected his hygiene, health and quality of life. Despite a duty to promptly  
8 secure medical care for Mr. Traverso, jail staff continually denied Mr. Traverso's  
9 requests, which demonstrated an ongoing deliberate indifference by defendants DOES  
10 1 through 20 inclusive, to his serious medical and mental health needs and is liable for  
11 Mr. Traverso's injuries.  
12

13  
14 4.23 The actions of jail staff, including DOES 1 through 20 inclusive, were  
15 carried out in accordance with the official policies, procedures, customs, and practices  
16 of the City of Enumclaw. Such policies, procedures, customs, and practices caused  
17 injuries to Mr. Traverso.  
18

19  
20 4.24 On Tuesday, June 24, 2008, by Court Order the King County Crises  
21 and Commitment Services extrapolated Mr. Traverso from the Enumclaw Municipal  
22 Jail and had him involuntarily committed to the custody of Fairfax Hospital because  
23 the absence of medication made Mr. Traverso a danger to himself and others.  
24

25 4.25 Mr. Traverso was confined to Fairfax Hospital for two (2) weeks before  
26 his Bi-Polar Disorder could be stabilized enough to allow him to function outside of a  
27 mental hospital. The institutionalization would not have been necessary if Mr.  
28 Traverso's requests for medical and mental health care had been granted. Instead,  
29  
30

1 the institutionalization only became necessary after Mr. Traverso had been deprived  
2 of medical treatment and his medications by the Enumclaw Municipal Jail.

3  
4 4.26 Due to the prolonged institutionalization, Mr. Traverso was on medical  
5 leave for twelve (12) weeks before he was able to return to work. Consequently, Mr.  
6 Traverso lost salary and bonuses he was previously scheduled to receive.

7  
8 4.27 The denial of timely medical care to Mr. Traverso is part of an ongoing  
9 pattern and practice of denying needed medical and mental health care to detainees at  
10 the Enumclaw Municipal Jail with deliberate indifference to their medical needs. It  
11 was foreseeable that the failure to render treatment to those detainees in need of  
12 medical attention would cause harm to those detainees.

13  
14 4.28 Defendants Jim Zoll and Eric Sortland are charged with the  
15 responsibility of operating, administering and supervising the City of Enumclaw Jail.  
16 With that responsibility comes the duties:

- 17  
18 1. Under RCW 70.48.130, to ensure that all jail inmates receive appropriate  
19 and cost-effective emergency and necessary medical care;  
20  
21 2. Section 3 of the Washington State Constitution, that no person be  
22 deprived of life, liberty or property, without due process of law;  
23  
24 3. Section 14 of the Washington State Constitution, that excessive bail  
25 shall not be required, excessive fines imposed, nor cruel punishment  
26 inflicted;  
27  
28 4. To supervise and train personnel within the Enumclaw Municipal Jail as  
29 well as adopt policies, procedures, and standards that will not cause the  
30

1 City of Enumclaw, and/or jail personnel to be deliberately indifferent to a  
2 detainee's serious medical needs, and/or inflict cruel and unusual  
3 punishment or the deprivation of due process; and  
4

5 5. Other applicable laws and regulations.

6 4.29 On April 18, 2011, plaintiff timely filed the Claim for Damages with the  
7 City of Enumclaw, Enumclaw Police Department and City Attorney's Office, thereby  
8 tolling the statute of limitations, and waited sixty (60) days before filing this  
9 complaint fulfilling all procedural requirements prior to filing this action.  
10

#### 11 V. Causation

12 5.1 Mr. Traverso has suffered damages as a result of his injuries.  
13

14 5.2 A proximate cause of plaintiff's injuries was the defendant City of  
15 Enumclaw's failing to establish policies and procedures to screen detainees with  
16 serious medical and/or mental health needs as well as have medical staff competent to  
17 deal with a detainee's mental health issues, including Mr. Traverso's Bi-Polar  
18 Disorder, and knowingly posing a substantial risk of harm to Mr. Traverso by  
19 remaining deliberately indifferent to his serious medical and mental health needs.  
20  
21

22 5.3 A proximate cause of plaintiff's injuries was the defendant City of  
23 Enumclaw's policies and procedure, or lack thereof, that were relied upon and the  
24 moving force behind the Enumclaw Municipal Jail's staff's violation of Mr. Traverso's  
25 constitutional rights by declining medical treatment, and remaining deliberately  
26 indifferent to Mr. Traverso's serious medical and mental health needs.  
27  
28  
29  
30

1           5.4 A proximate cause of plaintiff's injuries was defendant DOES' 1 through  
2 20 inclusive, failure to secure timely medical assistance for Mr. Traverso,  
3 demonstrated deliberate indifference to his serious medical and mental health needs.  
4

5           5.5 A proximate cause of plaintiff's injuries was defendant Jim Zell's and  
6 Eric Sortland's failure to adopt policies and procedures that will not cause the City of  
7 Enumclaw, and/or jail personnel to be deliberately indifferent to a detainee's serious  
8 medical needs, and/or inflict cruel and unusual punishment or the deprivation of due  
9 process as well as to train and supervise staff to follow the same.  
10

11           5.6 As a direct and proximate result of the deliberate indifference and  
12 negligence, carelessness and unlawful conduct of the defendants, and each of them,  
13 jointly and severally, plaintiff Robert Traverso has: sustained personal injuries, both  
14 physical and mental, which necessitated medical care and treatment; suffered both  
15 physical and mental pain, disability, discomfort and anguish, together with a loss of  
16 earnings; and has otherwise been humiliated and stripped of rights, liberties and  
17 freedoms guaranteed through the United States and Washington Constitutions.  
18  
19  
20

## 21 VI. Claims Against the City of Enumclaw

22           6.1 Plaintiff repeats and re-alleges paragraphs 1.1 through 5.6 of the  
23 complaint as if fully set forth herein.  
24

25           6.2 As a result of the allegations contained in this complaint, the City of  
26 Enumclaw is liable to the plaintiff for his loss of income, services, protection, care,  
27 assistance, society and expenses under 42 U.S.C. § 1983.  
28

29           6.3 As a result of the allegations contained in this complaint, the City of  
30 Enumclaw is liable to the plaintiff for his loss of income, services, protection, care,



1 assistance, society and expenses under state law for negligence, including vicarious  
2 liability as well as negligent supervision and/or retention and outrage.

3  
4 **VII. Claims Against DOES 1 through 20 Inclusive**

5 7.1 Plaintiff repeats and re-alleges paragraphs 1.1 through 5.6 of the  
6 complaint as if fully set forth herein.

7 7.2 As a result of the allegations contained in this complaint, DOES 1  
8 through 20 inclusive, are liable to the plaintiff for his loss of income, services,  
9 protection, care, assistance, society and expenses under 42 U.S.C. § 1983.

10  
11 **VIII. Claims Against Chief Jim Zoll and Lt. Eric Sortland**

12 8.1 Plaintiff repeats and re-alleges paragraphs 1.1 through 5.6 of the  
13 complaint as if fully set forth herein.

14  
15 8.2 As a result of the allegations contained in this complaint, Chief Jim Zoll  
16 and Lt. Eric Sortland are liable to the plaintiff for his loss of income, services,  
17 protection, care, assistance, society and expenses under state law for negligence,  
18 negligent supervision and/or retention and negligent infliction of emotional distress.

19  
20 **IX. Prayer for Relief**

21 WHEREFORE, the plaintiff prays that the Court award:

- 22  
23 A. Compensatory damages for physical and emotional pain and suffering in  
24 an amount to be proven at trial;  
25  
26 B. Economic damages in an amount to be proven at trial;  
27  
28 C. Medical expenses in an amount to be proven at trial;  
29  
30 D. Punitive damages in an amount to be proven at trial;



1 E. Reasonable attorneys' fees, costs and prejudgment interest incurred in  
2 pursuing this action as provided for in 42 U.S.C. § 1988; and

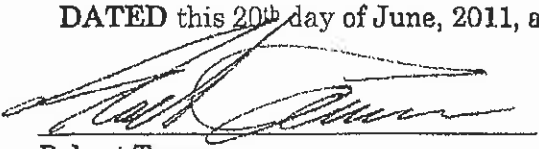
3  
4 F. Any such other relief that this Court deems just and equitable.

5 DATED this 20<sup>th</sup> day of June, 2011.

6 s/Aaron J. Winkelhake  
7 Aaron J. Winkelhake, WSBA No. 32733  
8 Tanya A. Khodr, WSBA No. 34300  
9 Khodr & Winkelhake, P.L.L.C.  
10 323 Queen Anne Ave. N, Suite 102  
11 Seattle, Washington 98109-4543  
12 Telephone: (206) 384-1886  
13 Fax: (206) 274-4829  
14 E-mail: [awinkelhake@kwlegal.org](mailto:awinkelhake@kwlegal.org)  
15 E-mail: [tkhodr@kwlegal.org](mailto:tkhodr@kwlegal.org)  
16 Attorneys for Plaintiffs

17 I declare under the penalty of perjury under the laws of the State of  
18 Washington that the forgoing is true and correct.

19 DATED this 20<sup>th</sup> day of June, 2011, at Seattle, Washington.

20   
21 Robert Traverso  
22 c/o Khodr & Winkelhake, P.L.L.C.  
23 323 Queen Anne Ave. N, Suite 102  
24 Seattle, Washington 98109-4543  
25 Telephone: (206) 384-1886  
26 Fax: (206) 274-4829  
27 E-mail: [awinkelhake@kwlegal.org](mailto:awinkelhake@kwlegal.org)

E

SUPERIOR COURT OF WASHINGTON  
COUNTY OF KING

Robert L. Traverso

NO. 11-2-21395-1 KNT

VS

City of Enumclaw, et al.

CASE INFORMATION COVER SHEET  
AND AREA DESIGNATION

---

CAUSE OF ACTION

(PIN) - TORT, NON-MOTOR VEHICLE

AREA DESIGNATION

**KENT -** Defined as all King County south of Interstate 90 except those areas included in the Seattle Case Assignment Area.

F

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

Robert L. Traverso

vs

City of Enumclaw, et al.

Plaintiff(s)

Defendant(s)

NO. 11-2-21395-1 KNT

Order Setting Civil Case Schedule (\*ORSCS)

ASSIGNED JUDGE Erlick 51

FILE DATE: 06/20/2011

TRIAL DATE: 12/03/2012

A civil case has been filed in the King County Superior Court and will be managed by the Case Schedule on Page 3 as ordered by the King County Superior Court Presiding Judge.

I. NOTICES

**NOTICE TO PLAINTIFF:** The Plaintiff may serve a copy of this **Order Setting Case Schedule (Schedule)** on the Defendant(s) along with the **Summons and Complaint/Petition**. Otherwise, the Plaintiff shall serve the **Schedule** on the Defendant(s) within 10 days after the later of: (1) the filing of the **Summons and Complaint/Petition** or (2) service of the Defendant's first response to the **Complaint/Petition**, whether that response is a **Notice of Appearance**, a response, or a Civil Rule 12 (CR 12) motion. The **Schedule** may be served by regular mail, with proof of mailing to be filed promptly in the form required by Civil Rule 5 (CR 5).

*"I understand that I am required to give a copy of these documents to all parties in this case."*

Aaron J. Winkelhake

Print Name

[Signature]

Sign Name

## I. NOTICES (continued)

### NOTICE TO ALL PARTIES:

All attorneys and parties should make themselves familiar with the King County Local Rules [KCLCR] -- especially those referred to in this *Schedule*. In order to comply with the *Schedule*, it will be necessary for attorneys and parties to pursue their cases vigorously from the day the case is filed. For example, discovery must be undertaken promptly in order to comply with the deadlines for joining additional parties, claims, and defenses, for disclosing possible witnesses [See KCLCR 26], and for meeting the discovery cutoff date [See KCLCR 37(g)].

### CROSSCLAIMS, COUNTERCLAIMS AND THIRD PARTY COMPLAINTS:

A filing fee of \$230 must be paid when any answer that includes additional claims is filed in an existing case.

#### KCLCR 4.2(a)(2)

A Confirmation of Joinder, Claims and Defenses or a Statement of Arbitrability must be filed by the deadline in the schedule. The court will review the confirmation of joinder document to determine if a hearing is required. If a Show Cause order is issued, all parties cited in the order must appear before their Chief Civil Judge.

### PENDING DUE DATES CANCELED BY FILING PAPERS THAT RESOLVE THE CASE:

When a final decree, judgment, or order of dismissal of all parties and claims is filed with the Superior Court Clerk's Office, and a courtesy copy delivered to the assigned judge, all pending due dates in this *Schedule* are automatically canceled, including the scheduled Trial Date. It is the responsibility of the parties to 1) file such dispositive documents within 45 days of the resolution of the case, and 2) strike any pending motions by notifying the bailiff to the assigned judge.

Parties may also authorize the Superior Court to strike all pending due dates and the Trial Date by filing a *Notice of Settlement* pursuant to KCLCR 41, and forwarding a courtesy copy to the assigned judge. If a final decree, judgment or order of dismissal of all parties and claims is not filed by 45 days after a *Notice of Settlement*, the case may be dismissed with notice.

If you miss your scheduled Trial Date, the Superior Court Clerk is authorized by KCLCR 41(b)(2)(A) to present an *Order of Dismissal*, without notice, for failure to appear at the scheduled Trial Date.

### NOTICES OF APPEARANCE OR WITHDRAWAL AND ADDRESS CHANGES:

*All parties to this action must keep the court informed of their addresses.* When a Notice of Appearance/Withdrawal or Notice of Change of Address is filed with the Superior Court Clerk's Office, parties must provide the assigned judge with a courtesy copy.

### ARBITRATION FILING AND TRIAL DE NOVO POST ARBITRATION FEE:

A Statement of Arbitrability must be filed by the deadline on the schedule if the case is subject to mandatory arbitration and service of the original complaint and all answers to claims, counterclaims and cross-claims have been filed. If mandatory arbitration is required after the deadline, parties must obtain an order from the assigned judge transferring the case to arbitration. Any party filing a Statement must pay a \$220 arbitration fee. If a party seeks a trial de novo when an arbitration award is appealed, a fee of \$250 and the request for trial de novo must be filed with the Clerk's Office Cashiers.

### NOTICE OF NON-COMPLIANCE FEES:

All parties will be assessed a fee authorized by King County Code 4.71.050 whenever the Superior Court Clerk must send notice of non-compliance of schedule requirements and/or Local Civil Rule 41.

King County Local Rules are available for viewing at [www.kingcounty.gov/courts/clerk](http://www.kingcounty.gov/courts/clerk).

## II. CASE SCHEDULE

CASE EVENT	DEADLINE or EVENT DATE	Filing Needed
Case Filed and Schedule Issued.	Mon 06/20/2011	*
Last Day for Filing Statement of Arbitrability without a Showing of Good Cause for Late Filing [See KCLMAR 2.1(a) and Notices on Page 2]. <b>\$220 arbitration fee must be paid</b>	Mon 11/28/2011	*
<b>DEADLINE</b> to file Confirmation of Joinder if not subject to Arbitration. [See KCLCR 4.2(a) and Notices on Page 2].	Mon 11/28/2011	*
<b>DEADLINE</b> for Hearing Motions to Change Case Assignment Area. [See KCLCR 82(e)]	Mon 12/12/2011	
<b>DEADLINE</b> for Disclosure of Possible Primary Witnesses [See KCLCR 26(b)].	Mon 07/02/2012	
<b>DEADLINE</b> for Disclosure of Possible Additional Witnesses [See KCLCR 26(b)].	Mon 08/13/2012	
<b>DEADLINE</b> for Jury Demand [See KCLCR 38(b)(2)].	Mon 08/27/2012	*
<b>DEADLINE</b> for Setting Motion for a Change in Trial Date [See KCLCR 40(e)(2)].	Mon 08/27/2012	*
<b>DEADLINE</b> for Discovery Cutoff [See KCLCR 37(g)].	Mon 10/15/2012	
<b>DEADLINE</b> for Engaging in Alternative Dispute Resolution [See KCLCR 16(b)].	Mon 11/05/2012	
<b>DEADLINE</b> for Exchange Witness & Exhibit Lists & Documentary Exhibits [See KCLCR 4(j)].	Tue 11/13/2012	
<b>DEADLINE</b> to file Joint Confirmation of Trial Readiness [See KCLCR 16(a)(2)].	Tue 11/13/2012	*
<b>DEADLINE</b> for Hearing Dispositive Pretrial Motions [See KCLCR 56; CR 56].	Mon 11/19/2012	
Joint Statement of Evidence [See KCLCR (4)(k)].	Mon 11/26/2012	*
<b>DEADLINE</b> for filing Trial Briefs, Proposed Findings of Fact and Conclusions of Law and Jury Instructions (Do not file Proposed Findings of Fact and Conclusions of Law with the Clerk)	Mon 11/26/2012	*
Trial Date [See KCLCR 40].	Mon 12/03/2012	

## III. ORDER

Pursuant to King County Local Civil Rule 4 [KCLCR 4], IT IS ORDERED that the parties shall comply with the schedule listed above. Penalties, including but not limited to sanctions set forth in Local Civil Rule 4(g) and Rule 37 of the Superior Court Civil Rules, may be imposed for non-compliance. It is FURTHER ORDERED that the party filing this action must serve this *Order Setting Civil Case Schedule* and attachment on all other parties.

DATED: 06/20/2011



PRESIDING JUDGE

#### **IV. ORDER ON CIVIL PROCEEDINGS FOR ASSIGNMENT TO JUDGE**

##### **READ THIS ORDER BEFORE CONTACTING YOUR ASSIGNED JUDGE**

This case is assigned to the Superior Court Judge whose name appears in the caption of this case schedule. The assigned Superior Court Judge will preside over and manage this case for all pretrial matters.

**COMPLEX LITIGATION:** If you anticipate an unusually complex or lengthy trial, please notify the assigned court as soon as possible.

**APPLICABLE RULES:** Except as specifically modified below, all the provisions of King County Local Civil Rules 4 through 26 shall apply to the processing of civil cases before Superior Court Judges. The local civil rules can be found at <http://www.kingcounty.gov/courts/superiorcourt/civil.aspx>.

##### **CASE SCHEDULE AND REQUIREMENTS**

Deadlines are set by the case schedule, issued pursuant to Local Civil Rule 4.

##### **THE PARTIES ARE RESPONSIBLE FOR KNOWING AND COMPLYING WITH ALL DEADLINES IMPOSED BY THE COURT'S LOCAL CIVIL RULES.**

###### **A. Joint Confirmation regarding Trial Readiness Report:**

No later than twenty one (21) days before the trial date, parties shall complete and file (with a copy to the assigned judge) a joint confirmation report setting forth whether a jury demand has been filed, the expected duration of the trial, whether a settlement conference has been held, and special problems and needs (e.g. Interpreters, equipment, etc.).

The form is available at <http://www.kingcounty.gov/courts/superiorcourt.aspx>. If parties wish to request a CR 16 conference, they must contact the assigned court. Plaintiff's/petitioner's counsel is responsible for contacting the other parties regarding said report.

###### **B. Settlement/Mediation/ADR**

a. Forty five (45) days before the trial date, counsel for plaintiff/petitioner shall submit a written settlement demand. Ten (10) days after receiving plaintiff's/petitioner's written demand, counsel for defendant/respondent shall respond (with a counter offer, if appropriate).

b. Twenty eight (28) days before the trial date, a Settlement/Mediation/ADR conference shall have been held. FAILURE TO COMPLY WITH THIS SETTLEMENT CONFERENCE REQUIREMENT MAY RESULT IN SANCTIONS.

**C. Trial:** Trial is scheduled for 9:00 a.m. on the date on the case schedule or as soon thereafter as convened by the court. The Friday before trial, the parties should access the King County Superior Court website <http://www.kingcounty.gov/courts/superiorcourt.aspx> to confirm trial judge assignment. Information can also be obtained by calling (206) 205-5984.

##### **MOTIONS PROCEDURES**

###### **A. Noting of Motions**

**Dispositive Motions:** All summary judgment or other dispositive motions will be heard with oral argument before the assigned judge. The moving party must arrange with the hearing judge a date and time for the hearing, consistent with the court rules. Local Civil Rule 7 and Local Civil Rule 56 govern procedures for summary judgment or other motions that dispose of the case in whole or in part. The local civil rules can be found at <http://www.kingcounty.gov/courts/superiorcourt/civil.aspx>.



**Nondispositive Motions:** These motions, which include discovery motions, will be ruled on by the assigned judge without oral argument, unless otherwise ordered. All such motions must be noted for a date by which the ruling is requested; this date must likewise conform to the applicable notice requirements. Rather than noting a time of day, the Note for Motion should state "Without Oral Argument." Local Civil Rule 7 governs these motions, which include discovery motions. The local civil rules can be found at <http://www.kingcounty.gov/courts/superiorcourt/civil.aspx>.

**Motions in Family Law Cases not involving children:** Discovery motions to compel, motions in limine, motions relating to trial dates and motions to vacate judgments/dismissals shall be brought before the assigned judge. All other motions should be noted and heard on the Family Law Motions calendar. Local Civil Rule 7 and King County Family Law Local Rules govern these procedures. The local rules can be found at <http://www.kingcounty.gov/courts/superiorcourt/civil.aspx>.

**Emergency Motions:** Under the court's local civil rules, emergency motions will be allowed only upon entry of an Order Shortening Time. However, emergency discovery disputes may be addressed by telephone call and without written motion, if the judge approves.

## **B. Original Documents/Working Copies/ Filing of Documents**

**All original documents must be filed with the Clerk's Office.** Please see information on the Clerk's Office website at [www.kingcounty.gov/courts/clerk](http://www.kingcounty.gov/courts/clerk) regarding the new requirement outlined in LGR 30 that attorneys must e-file documents in King County Superior Court. The exceptions to the e-filing requirement are also available on the Clerk's Office website.

The working copies of all documents in support or opposition must be marked on the upper right corner of the first page with the date of consideration or hearing and the name of the assigned judge. The assigned judge's working copies must be delivered to his/her courtroom or the Judges' mailroom. Working copies of motions to be heard on the Family Law Motions Calendar should be filed with the Family Law Motions Coordinator. On June 1, 2009 you will be able to submit working copies through the Clerk's office E-Filing application at [www.kingcounty.gov/courts/clerk](http://www.kingcounty.gov/courts/clerk).

**Service of documents.** E-filed documents may be electronically served on parties who opt in to E-Service within the E-Filing application. The filer must still serve any others who are entitled to service but who have not opted in. E-Service generates a record of service document that can be e-filed. Please see information on the Clerk's office website at [www.kingcounty.gov/courts/clerk](http://www.kingcounty.gov/courts/clerk) regarding E-Service.

**Original Proposed Order:** Each of the parties must include an original proposed order granting requested relief with the working copy materials submitted on any motion. Do not file the original of the proposed order with the Clerk of the Court. Should any party desire a copy of the order as signed and filed by the judge, a pre-addressed, stamped envelope shall accompany the proposed order.

**Presentation of Orders:** All orders, agreed or otherwise, must be presented to the assigned judge. If that judge is absent, contact the assigned court for further instructions. If another judge enters an order on the case, counsel is responsible for providing the assigned judge with a copy.

Proposed orders finalizing settlement and/or dismissal by agreement of all parties shall be presented to the assigned judge or in the Ex Parte Department. Formal proof in Family Law cases must be scheduled before the assigned judge by contacting the bailiff, or formal proof may be entered in the Ex Parte Department. If final order and/or formal proof are entered in the Ex Parte Department, counsel is responsible for providing the assigned judge with a copy.

**C. Form**

Memoranda/briefs for matters heard by the assigned judge may not exceed twenty four (24) pages for dispositive motions and twelve (12) pages for non-dispositive motions, unless the assigned judge permits over-length memoranda/briefs in advance of filing. Over-length memoranda/briefs and motions supported by such memoranda/briefs may be stricken.

**IT IS SO ORDERED. FAILURE TO COMPLY WITH THE PROVISIONS OF THIS ORDER MAY RESULT IN DISMISSAL OR OTHER SANCTIONS. PLAINTIFF/PETITIONER SHALL FORWARD A COPY OF THIS ORDER AS SOON AS PRACTICABLE TO ANY PARTY WHO HAS NOT RECEIVED THIS ORDER.**



---

PRESIDING JUDGE

G

HONORABLE JOHN ERLICK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

ROBERT L. TRAVERSO,

Plaintiff,

v.

CITY OF ENUMCLAW, a municipal  
corporation, CHIEF JIM ZOLL and his  
marital community; ERIC SORTLAND and  
his marital community, and JOHN DOES 1-  
20, Inclusive,

Defendants.

No. 11-2-21395-1 KNT

DEFENDANTS' NOTICE OF  
APPEARANCE

TO: ROBERT L. TRAVERSO, Plaintiff

AND TO: Aaron Winkelhake & Tanya Khodr of Khodr & Winkelhake, PLLC,  
Attorneys for Plaintiff

AND TO: THE CLERK OF THE ABOVE-ENTITLED COURT

YOU, AND EACH OF YOU, WILL PLEASE BE ADVISED AND TAKE  
NOTICE that the undersigned appears as attorney of record for CITY OF ENUMCLAW,  
CHIEF JIM ZOLL, AND ERIC SORTLAND, Defendants without waiving any defects as  
to lack of jurisdiction over subject matter, lack of jurisdiction over person, improper venue,  
insufficiency of process, insufficiency of service of process, misjoinder or non-joinder, and  
hereby requests that any and all further pleadings or notices of any nature or kind

DEFENDANTS' NOTICE OF APPEARANCE - 1

K:\SAE\Enumclaw adv Traverso - WCIA 11092\Pleadings\p-072911-NOA.doc

KEATING, BUCKLIN & McCORMACK, INC., P.S.

ATTORNEYS AT LAW  
800 FIFTH AVENUE, SUITE 4141  
SEATTLE, WASHINGTON 98104-3175  
PHONE (206) 823-8861  
FAX (206) 223-9423

1 whatsoever affecting the rights of said parties, except original process, be served upon the  
2 undersigned attorneys at the address stated below.

3 DATED this 1<sup>st</sup> day of August, 2011.

4  
5 KEATING, BUCKLIN & McCORMACK, INC., P.S.

6  
7 s/ Stewart A. Estes

8 Stewart A. Estes, WSBA #15535

9 Attorney for Defendants City of Enumclaw, Zoll, &  
10 Sortland  
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CERTIFICATE OF SERVICE

I hereby declare under penalty of perjury of the laws of the State of Washington that I am of legal age and not a party to this action; that on the 1<sup>st</sup> day of August, 2011, I electronically filed the above document with the Clerk of the Court using the E-Filing system, and I served the above document via the method indicated below to the parties addressed below for service no later than August 2, 2011.

Attorneys for Plaintiff – sent via legal messenger

Aaron J. Winkelhake, Esq.  
Tanya A. Khodr, Esq.  
Khodr & Winkelhake, PLLC  
323 Queen Anne Avenue N, Suite 102  
Seattle, WA 98109

[ajw@khodrkwlegal.org](mailto:ajw@khodrkwlegal.org)

[tkh@khodrkwlegal.org](mailto:tkh@khodrkwlegal.org)

s/ Cheryl L. Spangler

Cheryl L. Spangler, Legal Assistant